

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

C&S WHOLESALE GROCERS, INC.,

Plaintiff,

v.

GROCERY HAULERS, INC.,

Defendant.

Civil Action No: 1-11-cv-00127-LM

**JOINT STIPULATION AND  
ORDER TO MODIFY DISCOVERY PLAN**

**WHEREAS**, the Plaintiff C&S Wholesale Grocers, Inc. (“C&S”) and the Defendant Grocery Haulers, Inc. (“GHI”) have been actively engaged in conducting discovery in the above-captioned matter, and have exchanged initial disclosures, requests for the production of documents and responses, and interrogatories and answers to interrogatories;

**WHEREAS** the Parties have also been actively engaged in discovery in a parallel proceeding between the Parties pending in the United States District Court for the Southern District of New York, styled as *Grocery Haulers, Inc. v. C&S Wholesale Grocers, Inc.*, U.S.D.C. S.D.N.Y., Civil Action No: 11-CIV-3130, and the Parties have recently received a notice from the Southern District indicating that the case is placed on the April 30, 2012 trial ready calendar;

**WHEREAS**, although the Parties have worked diligently to comply with the Discovery Plan as approved by the Court in the above-captioned matter, additional time will likely be necessary in the instant action;

**NOW, THEREFORE**, the Parties hereby stipulate and agree, and propose to the Court for entry as an Order, that the discovery plan originally proposed by the Parties and entered by the Court be modified as follows:

1. Date all discovery will be completed (including expert discovery): August 3, 2012;
2. Date fact discovery will be completed: May 31, 2012;
3. Date of expert disclosure by party bearing burden of proof as to the claim or defense that is subject of such expert's testimony: June 15, 2012;
4. Date of disclosure of any rebuttal expert(s): July 6, 2012;
5. Date for Motions for Summary Judgment: August 13, 2012;
6. Trial shall take place the trial period beginning December 11, 2012;

Dated: February 28, 2012

Respectfully Submitted,

**C&S WHOLESALE GROCERS, INC.,**

By its attorneys,

/s/ Benjamin L. Hincks  
Gordon J. MacDonald  
N.H. Bar. No. 11011  
NIXON PEABODY LLP  
900 Elm Street  
Manchester, NH 03101  
Telephone: 603-628-4000  
Fax: 603-628-4040  
[gmacdonald@nixonpeabody.com](mailto:gmacdonald@nixonpeabody.com)

Benjamin L. Hincks, Esq. (Admitted *pro hac vice*)  
Michael J. Ticcioni, Esq. (Admitted *pro hac vice*)  
MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY and POPEO, P.C.  
One Financial Center  
Boston, MA 02111  
Telephone: 617-542-6000  
Fax: 617-542-2241  
[bhincks@mintz.com](mailto:bhincks@mintz.com)  
[mjticcioni@mintz.com](mailto:mjticcioni@mintz.com)

**GROCERY HAULERS, INC.**

By its attorneys,

/s/ William R. Fried  
Arnold Rosenblatt  
N.H. Bar. No. 2879  
COOK, LITTLE, ROSENBLATT & MANSON, PLLC  
1000 Elm Street  
Manchester, NH 03101  
(603) 621-7100  
a.rosenblatt@clrm.com

Stephen B. Selbst, Esq. (Admitted *pro hac vice*)  
William R. Fried, Esq (Admitted *pro hac vice*)  
HERRICK, FEINSTEIN LLP  
2 Park Avenue  
New York, New York 10016  
Tel: (212) 592-1400  
[wfried@herrick.com](mailto:wfried@herrick.com)  
[sselbst@herrick.com](mailto:sselbst@herrick.com)

**SO ORDERED:**

/s/Daniel J. Lynch  
Hon. Daniel J. Lynch  
U.S. Magistrate Judge

Date: 2/28/2012